

Docket No.: K-0373

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Customer No.: 34610

Jin Soo LEE

Confirmation No.: 9467

Serial No.: 10/025,920

Group Art Unit: 2623

Filed: 12/26/2001

Examiner: John R. Schnurr

For: APPARATUS AND METHOD FOR CALCULATING AUDIENCE RATING USING
INTERACTIVE TELEVISION

REQUEST FOR RECONSIDERATION

U.S. Patent and Trademark Office
Customer Service Window, **Mail Stop Amendment**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

Claims 1, 3, 4, 6-15 and 22-24 are pending in the application. Applicant respectfully requests reconsideration of the rejections set forth in the Office Action dated June 30, 2008.

The Office Action rejects the claims under 35 U.S.C. §103(a) over U.S. Patent 7,003,790 to Inoue et al. (hereafter Inoue) in view of U.S. Patent Publication 2003/0037333 to Ghashghai (hereafter the Ghashghai publication), alone or in combination with one of U.S. Patent 5,416,693 to Yoshinari, U.S. Patent 7,006,881 to Hoffberg et al. (hereafter Hoffberg) and/or U.S. Patent 6,184,918 to Goldschmidt Iki et al. (hereafter Goldschmidt Iki). The rejections are respectfully traversed with respect to the pending claims.

Independent claim 1 recites that the consumption type recorder comprises a recording record area for recording relevant information and frequency thereof regarding when the user

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records the content, and a back-up saving record area for recording relevant information and frequency thereof regarding when the content is saved in an external storage besides a receiver.

The applied references do not teach or suggest at least these features. More specifically, the Office Action cites Inoue's col. 9, line 54-col. 10, line 22 as corresponding to the claimed recording record area and cites Inoue's col. 6, lines 49-55 as corresponding to the claimed back-up saving area. However, Inoue does not teach or suggest the specifically claimed features. That is, the Office Action's alleged external device does not correspond to the claimed consumption type recorder that includes a recording record area and a back-up saving area for recording relevant information and frequency thereof regarding when the content is saved in an external storage besides a receiver. Inoue does not teach or suggest a consumption type recorder that includes a back-up saving record area in combination with a recording record area. The other applied references do not teach or suggest these features.

Applicant has previously submitted a verified English-language translation of the Korean priority document, namely Korean Application No. 2000-85755, filed December 29, 2000. It is respectfully submitted that the Korean priority document supports each of the rejected pending claims of the present application.

The Office Action also states (on page 4) that Inoue does not teach that the consumption behavior recorder comprises a normal finish record area, a stopped record area, a skimmed record area, wherein the stopped action, the skimmed action and the skipped action are each different actions, and wherein the information from the normal finish record area, the section information from the stopped record area, the section information from the skimmed record

area and the section information from the skipped record area are transferred by the data transmitter.

The Office Action cites paragraphs [0232], [0248], [0251] and [0254] of the Ghashghai publication for the features of independent claim 1 that are missing from Ghashghai. However, as stated in the response filed April 16, 2008, the features, paragraphs and subject matter of the Ghashghai's publication that are cited in the Office Action are not prior art to the present application. The Office Action should not cite subject matter that is non-prior art.

The Ghashghai publication is a publication of U.S. Application 10/189,989, filed July 5, 2002. The Ghashghai publication includes subject matter disclosed in U.S. Application 09/422,121, filed October 20, 1999 (hereafter the Ghashghai parent application), as well as “new matter” added to Application 10/189,989 filed July 5, 2002. The “new matter” in the Ghashghai publication is not prior art to the pending claims of the present application.

The subject matter of paragraphs [0232], [0248], [0251] and [0254] of the Ghashghai publication are not disclosed in the Ghashghai parent application. The cited paragraphs are “new matter” added to U.S. Application 10/189,989 filed July 5, 2002. Therefore, subject matter of paragraphs [0232], [0248], [0251] and [0254] are not prior art to the pending claims of the present application, and should not be cited as prior art.

Applicant respectfully submits that the Ghashghai parent application (09/422,121) does not teach or suggest a normal finish record area, a stopped record area, a skimmed record area, a skipped record area, wherein the stopped action, the skimmed action and the skipped action are each different sections and that the information from the normal finish record area, the section

information from the stopped record area, the section information from the skimmed record area and the section information from the skipped record area are transferred by the data transmitter, as recited in independent claim 1.

The Advisory Action dated March 31, 2008 appears to cite page 19, line 32-page 20, line 2 and page 36, line 20-page 37, line 23 of the Ghashghai parent application as disclosing VCR-like actions. However, these cited sections of the Ghashghai parent application do not teach or suggest the specific features regarding each of the normal finish record area, the stopped record area, the skimmed record area, the skipped record area. The Ghashghai parent application does not recognize or suggest these specific and different record areas. As discussed at least at page 15, lines 16-20 and page 17, line 25-page 19, line 21 by utilizing different record areas, the data may be better analyzed (as to interesting or less interesting). The Ghashghai parent application does not recognize these advantages of the different record areas, and thus has no suggestion for them. The Ghashghai parent application does not teach these specific features missing from Inoue. Additionally, there is no suggestion for these features in the Ghashghai parent application.

The Office Action has not provided any prior art reference that teaches or suggests these features of independent claim 1 missing from Inoue. The other applied references do not teach or suggest the missing features. The Office Action therefore fails to make a *prima facie* case of obviousness with respect to independent claim 1. Thus, independent claim 1 defines patentable subject matter.

Each of the dependent claims depends from independent claim 1 and therefore defines patentable subject matter at least for this reason. In addition, the dependent claims recite features that further and independently distinguish over the applied references.

For example, dependent claim 8 recites a replay record area for recording section information regarding when a rewind action is made on the content, and a slowed record area for recording section information regarding when a slowed action is made on the content, wherein the stopped action, the skimmed action, the skipped action, the rewind action and the slowed action are each different actions. The Office Action (on page 6) cites Ghashghai's paragraphs [0249] and [0252]. However, the subject matter of paragraphs [0249] and [0252] is not disclosed in the Ghashghai parent application. Therefore, paragraphs [0249] and [0252] are not prior art to dependent claim 8 of the present application. The Ghashghai parent application does not teach or suggest these specific features. Inoue (and the other applied references) does not teach or suggest these features. Thus, dependent claim 8 defines patentable subject matter at least for this additional reason.

Additionally, dependent claim 22 recites that the section information of the skimmed record area includes information identifying a start and an end of the section. See also dependent claims 23-24. The Office Action (on page 6) cites Ghashghai's paragraph [0247] for these features. However, the subject matter of paragraph [0247] is not disclosed in the Ghashghai parent application. Therefore, paragraph [0247] is not prior art to dependent claims 22-24 of the present application. The Ghashghai parent application does not teach or suggest these specific

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features. Inoue (and the other applied references) do not teach or suggest these features. Thus, independent claims 22-24 define patentable subject matter at least for this additional reason.

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Favorable consideration and prompt allowance of claims 1, 3, 4, 6-15 and 22-24 are earnestly solicited. If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney at the telephone number listed below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,
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Date: September 30, 2008

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